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maintained for the life, liberty and reputation of the individual. It was deemed manifestly unjust that a person be deprived of either except upon the clearest proof. But in the case of a corporation, an artificial intangible personality having neither body nor soul, which cannot in any strict sense be said to have a reputation and which can only be mulcted of its property by a fine in a criminal prosecution, it is safe to say that many of the reasons lying at the base of the common law rule as to burden of proof in criminal cases do not exist, and that there is some basis for contending that no greater proof should be required to obtain a judgment against a corporation in a criminal case than in a civil case, since the judgment can only affect the corporation in each case in precisely the same way, namely, by depriving it of its property. The Supreme Court of Maine has expressly held that in an action under a statute criminal in form, but to recover a penalty, the same rules of evidence apply as in civil cases. *State v. Grand Trunk R. Co.*, 58 Me. 176. Whether allowing conviction of a corporation on less than proof beyond a reasonable doubt would be considered as depriving a person of equal protection of the laws, *quaere*.

GARNISHMENTS—ON WHAT ACTIONS AVAILABLE—LIQUIDATED CLAIMS.—Plaintiff issued an attachment against a non-resident debtor to recover a sum of money, alleged to be due for services rendered in collecting incomes, making investments, etc. Defendants were summoned as garnishees. *Held*, the claim sued on was unliquidated and therefore could not support a garnishment proceeding. *Blick v. Mercantile Trust & Deposit Company of Baltimore* (1910), — Md. —, 77 Atl. 844.

In a leading case it is said "that the measure of damages must be such as the plaintiff can aver by affidavit to be due." *Fisher v. Consequa*, 2 Wash. C. C. 382, Fed. Cas. No. 4816; but there must either be a precise sum due or an agreed standard of computation or calculation. *Clark's Executors v. Wilson*, 3 Wash. C. C. 560, Fed. Cas. No. 2841; *Fleming v. Pringle*, 21 Civ. App. Tex. 225, 51 S. W. 553. Both of the above elements were foreign to the contract in the principal case, therefore a verified statement sufficient to support a proceeding in garnishment was impossible. *Hochstadler v. Sam*, 73 Tex. 315, 11 S. W. 408. It would seem that some courts refuse to restrict the remedy by attachment to liquidated damages. *Knox v. The Protection Ins. Co.*, 9 Conn. 430; *Lenox v. Howland*, 3 Caines (N. Y.) 277, 322.

INSURANCE—CHANGE OF RATES IN MUTUAL BENEFIT ASSOCIATION.—The plaintiff held a certificate in a mutual benefit insurance company issued under the usual condition that insured would comply with all subsequent rules and regulations. He refused to abide by a subsequent re-rating and raise in the assessment of old members and sued to recover premiums previously paid. *Held*, that he was bound by these new rulings. *Supreme Ruling of Fraternal Mystic Circle v. Ericson* (1910), — Tex. Civ. App. —, 131 S. W. 92.

In this class of policies the authorities are in harmony to the effect that the company may make reasonable changes, but the difficulty arises in deter-

mining when changes are reasonable. Different courts have come to different conclusions on similar facts, and the decisions of a single court are not always harmonious. Increasing rates is a violation of vested rights, *Wright v. Knights of Maccabees*, 95 N. Y. Supp. 996; the rates cannot be raised. *Dowdall v. Sup. Council, etc.*, 196 N. Y. 405, 89 N. E. 1075; a company may increase the rates, *Mock v. Sup. Council*, 106 N. Y. Supp. 155; permissible if necessary to the life of the company, *Evans v. Southern Tier Ass'n*, 88 N. Y. Supp. 162. The tendency of New York courts however is contrary to the principal case. The insured has a right to object but waives it by paying an assessment. An increase is a violation of vested rights, *Strauss v. Mut. Res. Ass'n*, 128 N. C. 465, 39 S. E. 55. In support of the principal case see: *Fullenwider v. Sup. Council*, 180 Ill. 621, 54 N. E. 485; *Miller v. Nat. Council*, 69 Kan. 234, 76 Pac. 830; *Reynolds v. Sup. Council*, 192 Mass. 150, 78 N. E. 129; *United Brew. Ass'n v. Cass*, — Tex. Civ. App. —, 119 S. W. 123; *Supreme Council of Royal Arcanum*, 238 Ill. 349, 87 N. E. 299; *Williams v. Sup. Council*, 152 Mich. 1, 115 S. W. 1060; *Norton v. Catholic Order*, — Iowa —, 114 N. W. 893. Contra: *Schack v. Sup. Lodge*, 9 Cal. App. 584, 99 Pac. 989; *Pearson v. Knight Templars*, 114 Mo. App. 283. New by-laws are presumed to be prospective and only a clearly manifested intent will extend them to previously executed certificates. VANCE, INSURANCE, pp. 193-194. It is difficult to see how a change would be unreasonable in any case if necessary to the solvency of the company.

JUDGMENTS—FOREIGN JUDGMENT—MERGER—BAR.—In an action prosecuted in a Canadian Court of record of common law jurisdiction by plaintiffs in error against defendants in error the latter counterclaimed a debt and received judgment thereon. Subsequently the defendants in error brought suit in the United States Circuit Court on a cause of action identical with his counterclaim. Held, judgment rendered by foreign court on a counterclaim did not merge the original cause of action and was no bar to a future action for the same cause in a domestic court. *Swift et al. v. David* (1910), — C. C. A. 9th Cir. —, 181 Fed. 828.

The doctrines that a foreign judgment does not merge the original cause of action, and that actions may still be had on the original cause of action, have long been recognized by the courts. STORY, CONFLICT OF LAWS 599; 1 SMITH, LEAD. CAS., Ed. 11, p. 786. Supported by the decided weight of authority as they are, both in this country and England, *Lyman v. Brown*, 2 Curt. 559, Fed. Cas. 8627; *Hall v. Odber*, 11 East 118; the existence of the two doctrines is no longer disputed. *Bank of Australasia v. Harding*, 9 C. B. 660. In *re Henderson, Nouvion v. Freeman*, 37 Ch. D. 244. Of late the courts seem to be taking a more liberal view of the subject, as is evidenced by the decision in *Alaska Commercial Co. v. Debney* (1904), 2 Alaska 303, holding that some foreign judgments do merge the original cause of action and in such cases the party must sue on the judgment alone. Also see contra, *Jones v. Jamison*, 15 La. Ann. 35, and PIGGOTS, FOREIGN JUDGMENTS, Ed. 2, p. 22, wherein the learned author severely impugns both doctrines and the reasons underlying them. To the same effect is 2 FREEMAN, JUDGMENTS, § 619.